

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Reinhold BUCK et al.)	Group Art Unit: 1797
)	
Application No.: 10/539,409)	Examiner: Marjorie E. Christian
)	
<hr/>		
Filed: June 17, 2005)	Confirmation No.: 4997
)	
For: PERM SELECTIVE ASYMMETRIC)	
HOLLOW FIBRE MEMBRANE)	
FOR THE SEPARATION OF)	
TOXIC MEDIATORS FROM)	<u>VIA EFS-WEB</u>
BLOOD)	

MAIL STOP RCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the listed documents on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed before the mailing date of a first Office Action after the filing of a Request for Continued Examination in the above-referenced application.

A copy of the listed foreign document is attached.

A copy of the listed office action from a co-pending application is not enclosed as it is available on the Image File Wrapper on PAIR. See M.P.E.P. § 609.04. The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003) that an "adverse decision" by another examiner may meet the materiality standard under the

amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the office action in the co-pending application is material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed a substantive office action from a co-pending application on the attached form PTO-SB-08.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited document does not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should the document be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please
charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: February 12, 2010

By: 

Carlos M. Tellez
Reg. No. 48,638